

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

MIKE BENAVIDES, et al.

Plaintiffs

v.

CITY OF AUSTIN

Defendant

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Civil No. 1:11-CV-438-LY

PARTIES' STIPULATION AS TO CALCULATION OF BACK PAY AMOUNTS

TO THE HONORABLE LEE YEAKEL, DISTRICT COURT JUDGE:

As ordered in the Court's "Finding of Fact and Conclusions of Law after Bench Trial on Damages [Doc 159]", Plaintiffs Mike Benavides, et al., and Defendant City of Austin jointly stipulate as to the calculation of Plaintiffs' back pay amounts and would respectfully show the Court as follows:

1. **Back Pay 4/26/09 – 12/28/13.** Without waiving any prior arguments as to the City's liability for overtime payment or as to the pay periods for which the City owes damages, the parties stipulate that if Defendant City is liable to Plaintiffs for overtime pay for every pay period from April 26, 2009 to the date of judgment, the back pay Defendant owes each Plaintiff for the period from April 26, 2009 to December 28, 2013, is as follows:

Plaintiff Name	Back Pay Calculation
Paul Alvarez	\$ 34,173.94
Michael Benavides	\$ 39,101.63
Janelle Boone	\$ 48,441.05
Victoria Branning	\$ 67,115.66
Walter Branning	\$75,481.21
Michael Broadwater	\$37,992.75
Kurtis Brown	\$75,045.91
Thomas Bryan	\$16,292.52
Susan Erwin	\$19,262.29
Bryan Fitzpatrick	\$55,450.95
Catherine Gerac	\$31,527.91

Plaintiff Name	Back Pay Calculation
Johnnie Hall	\$72,397.09
Ed Johns	\$31,442.01
Mark Karonika	\$38,503.97
David Lindsley	\$70,030.11
Jason Martin	\$26,324.61
Mark Montgomery	\$5,917.45
Carol Pierce	\$43,452.87
Temple Thomas	\$86,859.38
Gregory Weller	\$47,464.73
Landon Willhoite	\$14,155.11
Dani Winkler	\$24,318.45
Glen Wosky	\$41,174.39
Michael Wright	\$36,217.98
Amelia Zapata	\$41,495.19

Without waiving any of their arguments, the parties have stipulated that any Plaintiffs not listed above did not accrue any compensable overtime pay between April 26, 2009 and December 28, 2013.

2. **Back pay 12/29/13 – Final Judgment Date.** The City determines liability for overtime pay at the end of each two-week pay period. The parties stipulate that the next few pay periods for Plaintiffs will end on the following dates: February 1, February 15, March 1, March 15, March 29, April 12, and April 26. Due to the greater difficulty in calculating partial pay period back pay amounts, the parties respectfully request that the Court enter a final judgment on one of the pay period end dates shown above (or as close to one of those dates as possible). If the Court is able to do so, the parties should be able to agree, within 30 days of the entry of final judgment, on the additional amount of back pay due to each plaintiff from December 29, 2013, to the final judgment date. The parties respectfully propose this solution to avoid burdening the Court with additional back pay calculations, other than in the unlikely event the parties cannot agree on the calculation for back pay damages corresponding to the period between December 29, 2013, and the date of final judgment.

Respectfully submitted,

DEATS, DURST, OWEN & LEVY, P.L.L.C.

/s/ B. Craig Deats

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been served on counsel for Defendant, Christopher Coppola and Mishell Kneeland, City Attorney's Office, P.O. Box 1546, Austin, Texas 78767-1546; Fax: (512) 974-1311; Email: Christopher.Coppola@austintexas.gov and Mishell.Kneeland@austintexas.gov by ECF notification on this 31st day of January, 2014.

/s/ B. Craig Deats

B. Craig Deats / Manuel Quinto-Pozos